

PROACT FACT SHEET



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Toxic Chemical Reporting

The Emergency Planning and Community Right-to-Know Act (EPCRA), promulgated as Title III of the Superfund Amendments and Reauthorization Act (SARA), 42 United States Code § 1101 *et seq.*, is designed to provide federal, state, and local agencies, as well as the public, access to information on chemical hazards. EPCRA has four major components that collectively implement emergency planning and reporting provisions of the Act. These components require facilities to provide information on the type, amount, and location of chemical hazards by instituting multiple reporting requirements that are triggered if a facility uses, stores, and/or releases any specified chemical in an amount equal to or greater than established reportable quantities. This fifth installment in a series of fact sheets on EPCRA discusses the toxic release inventory reporting provisions of EPCRA Section 313.

Reporting Synopsis

The reporting requirements of EPCRA Section 313 are intended to inform government officials, the public, and surrounding communities, about releases of toxic chemicals to the air, water, or land. Any facility that manufactures, processes, or otherwise uses a toxic chemical in quantities that exceed an established activity threshold must complete a toxic chemical release form. The report contains information from the preceding calendar year, and is submitted annually to the Environmental Protection Agency (EPA) and designated state agencies. Regulations implementing EPCRA Section 313 are promulgated in Title 40 Code of Federal Regulations (CFR) Part 372.

Chemical Class

The reporting provisions of Section 313 involve substances classified as **toxic chemicals**, which is any chemical that poses long-term health and environmental hazards. These chemicals may cause severe illness, poisoning, birth defects, disease, or death when inhaled,

ingested, or absorbed. Specifically, this chemical class is defined to mean any chemical or category listed in Title 40 CFR Part 372.65.

Section 313 Activities

- **Manufacture** - to produce, prepare, import, or compound a toxic chemical. This activity also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use, or disposal of another chemical or mixture of chemicals.
- **Process** - the preparation of a toxic chemical after its manufacture for distribution in commerce. This activity also applies to the processing of a toxic chemical contained in a mixture or trade name product.
- **Otherwise Use** - any use of a toxic chemical, including a toxic chemical contained in a mixture or other trade name product or waste, that is not covered by the terms "manufacture" or "process."

Definitions paraphrased from Title 40 CFR 372.3

Reporting Threshold

The **Toxic Chemical Activity Threshold** applies to any toxic chemical manufactured, processed, or otherwise used during a calendar year at a facility with more than 10 full-time employees (or equivalent of 20,000 hours per year). The activity threshold is the maximum amount, in pounds, that a facility may manufacture, process, or otherwise use a toxic chemical without triggering reporting requirements.

There are three activity thresholds, any one of which may trigger EPCRA reporting requirements if exceeded:

- 1) 25,000 pounds per year if the facility manufactures a toxic chemical;

- 2) 25,000 pounds per year if the facility processes a toxic chemical; and
- 3) 10,000 pounds per year if the facility otherwise uses a toxic chemical.

The EPA has the authority to establish lower toxic chemical release reporting thresholds based on classes of chemicals or categories of facilities. Under this authority, the EPA has established lower toxic chemical release reporting thresholds for substances classified as persistent bioaccumulative toxic chemicals and lead compounds. For more information visit <http://www.epa.gov/tri/>.

Section 313 Summary

Section 313 requires the owner/operator of a facility to complete a toxic chemical release form (Form R) for each toxic chemical manufactured, processed, or otherwise used at the facility in quantities that exceed the annual Toxic Chemical Activity Threshold.

The toxic chemical release reports are prepared for the preceding calendar year and are submitted annually to the EPA and designated state agencies by 1 July. Reports must contain information on toxic chemicals released (spilled, leaked, pumped, poured, emitted, emptied, discharged, injected, leached, or dumped) into the environment: air, land, and/or water. Section 313 also includes the reporting of information on offsite transfers for proper treatment, recycling, or disposal of toxic chemicals.

Exemptions

The reporting provisions of Section 313 include a number of exemptions intended to reduce the regulatory burden by excluding items and substances that pose a minimal risk. If a toxic chemical is used in accordance with one of the specified exemptions, then the facility does not have to incorporate that chemical amount into the threshold determination or amount reported.

When applying exemptions it is important to consider both the intent and the letter of the law,

which is to inform the public about hazards at a facility and to assist those who respond to emergencies.

► De Minimis

The owner/operator of a facility is not required to report *de minimis* concentrations (i.e. trace amounts) of a toxic chemical in a mixture. The EPA has set two *de minimis* levels for which a facility is exempt from reporting:

- 1) If a mixture contains a toxic chemical at a concentration below 1%; or
- 2) If a mixture contains a toxic chemical that is also defined as an OSHA carcinogen, as defined in Title 29 CFR 1910.1200, at a concentration below 0.1%.

► Manufactured Articles

The owner/operator of a facility is exempt from reporting the quantity of a toxic chemical present in an article. An article, defined in Title 40 CFR Part 372.3, is any manufactured item that meets the following criteria:

- 1) Is formed to a specific shape or design during manufacture;
- 2) Has end-use functions dependent in whole or in part on its shape or design during end-use; and
- 3) Does not release a toxic chemical under normal conditions of processing or using the article.

However, if the same toxic chemical is manufactured, processed, or otherwise used at the facility, then the quantity of the chemical, other than the amount present in the article, must be counted in determining if an activity threshold is exceeded.

A facility can claim this exemption as long as the item continues to meet all of the criteria for an article; but, once an item no longer meets one of the criteria, it is no longer considered an article and the exemption does not apply.

➤ Specified Use

The owner/operator of a facility is not required to report on the quantity of toxic chemicals for five specified use exemptions, which include chemicals used or found in:

- 1) Structural components of the facility;
- 2) Routine janitorial or grounds maintenance;
- 3) Personal use items such as food, drugs, and cosmetics and operations that provide personnel services such as cafeterias and infirmaries;
- 4) Motor vehicle maintenance; and
- 5) The water or non-contact cooling water, or air taken from the environment used as part of combustion or compressed air.

➤ Facility Exemptions

The owner/operator of a facility is also exempt from Section 313 reporting requirements for the following:

- 1) Laboratory Activities
Facilities that manufacture, process, or use toxic chemicals in laboratory activities (research and quality control) under the supervision of a technically qualified individual are exempt from Section 313 reporting requirements. This exemption does not apply to specialty chemical production; the manufacturing, processing, or use of toxic chemicals in a pilot plant scale operation; and
- 2) Owners of Leased Property
Exemption is for owners of leased property where facilities operated by other entities are located. This exemption applies to owners that lease property to persons who operate a facility where the owner has no other business interest in the facility. Non-DoD owners/operators of facilities located on Air Force installations are responsible for TRI reporting for those facilities if the Air Force has no ownership interest apart from the land.

Form R

Section 313 reporting must be submitted to the EPA and applicable state agencies utilizing Form R (known as the TRI Report). The report covers each listed chemical manufactured, processed, or otherwise used in excess of the applicable threshold activity level for the preceding calendar year and are due annually on 1 July.

The information contained in the report includes, but is not limited to, the following:

- ◆ The name, location, and identification of the facility;
- ◆ Identification of each listed toxic chemical present at the facility;
- ◆ Whether the chemical is manufactured, processed, or otherwise used at the facility;
- ◆ An estimate of the maximum amount of the chemical present at the facility at any time during the preceding year;
- ◆ The annual amount of chemical released (accidental and routine) into each environmental medium: land, air, and/or water;
- ◆ Identification of the wastestream and the amount of the chemical transferred off-site for recycling, energy conservation, treatment, or disposal; and
- ◆ Pollution prevention data that includes source reduction initiatives, recycling methods, and amounts of the chemical recycled, used for energy recovery, released, disposed, or treated at a facility.

Record Keeping

Form R and all supporting documentation, including receipts or manifests associated with off-site transfers are required to be retained at the facility for a period of three years from the date of submission.

TRI Database

Section 313 also mandates the EPA to maintain a national toxic chemical inventory based on submitted Form R reports. The reports compiled by the EPA are consolidated into a database, known as the Toxics Release Inventory (TRI) database. EPA uses this data to evaluate waste management activities, environmental management practices, and to measure the effectiveness of current environmental strategies.

The TRI database is made available to the public so they may be made aware of the potential risks associated with the toxic chemicals present in their community, and to state and local government officials to aid in preparation of consolidated emergency response procedures associated with the facility. Access to the TRI database may be obtained through the EPA's TRI website at <http://www.epa.gov/tri/>.

Supplemental Guidance

The Department of Defense (DoD) and Air Force have published guidance on Section 313 reporting that includes specific interpretations of EPA's exemptions and their applicability. Use of supplemental guidance is critical to maintaining consistent reporting across the DoD and Air Force, and can be obtained from the Defense Environmental Network Information Exchange (DENIX) website at <http://www.denix.osd.mil/denix/denix.html> or by contacting PRO-ACT.

In addition the Environmental Quality Directorate, Headquarters Air Force Center for Environmental Excellence (HQ AFCEE/EQ) hosts an EPCRA website that includes TRI reporting information

such as the "Air Force Installation Toxic Chemical Release Inventory Reporting Guidance" which is designed to assist in reporting, exemptions, completion of Form R, and includes information on common reporting errors. The guide and other resources can be obtained at <http://www.afcee.brooks.af.mil/>.

The AFCEE/EQ site offers web-based EPCRA training courses, accessible at <http://webu.brooks.af.mil/webu/>.

Additional Information

This is the fifth and final fact sheet in the series discussing [EPCRA](#) reporting requirements, for additional information review our other fact sheets on EPCRA.

Air Force personnel may contact Ms. Laura Maxwell, HQ AFCEE, DSN 240-4218 or PRO-ACT at DSN 240-4240.

Websites

- ➔ Environmental Quality Directorate, HQ AFCEE, <http://www.afcee.brooks.af.mil/>.
- ➔ Chemical Emergency Preparedness and Prevention Office, EPA, <http://www.epa.gov/ceppo/>.
- ➔ Office of Solid Waste, EPA, <http://www.epa.gov/epaoswer/hotline/epcra.htm>.

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